



**CITY OF SUNNYVALE  
REPORT  
Administrative Hearing**

**May 11, 2005**

**SUBJECT:** **2005-0285** - Application on a 6,300 square-foot site located at **755 Ramona Avenue** (near Blair Ave) in an R-0(Low-Density Residential) Zoning District. (APN: 198-27-008).

Motion Variance from Sunnyvale Municipal Code section 19.48.100 to allow an air conditioning condenser with a 3.5-foot setback where 4 feet is required.

**REPORT IN BRIEF**

**Existing Site Conditions** Single Family Home

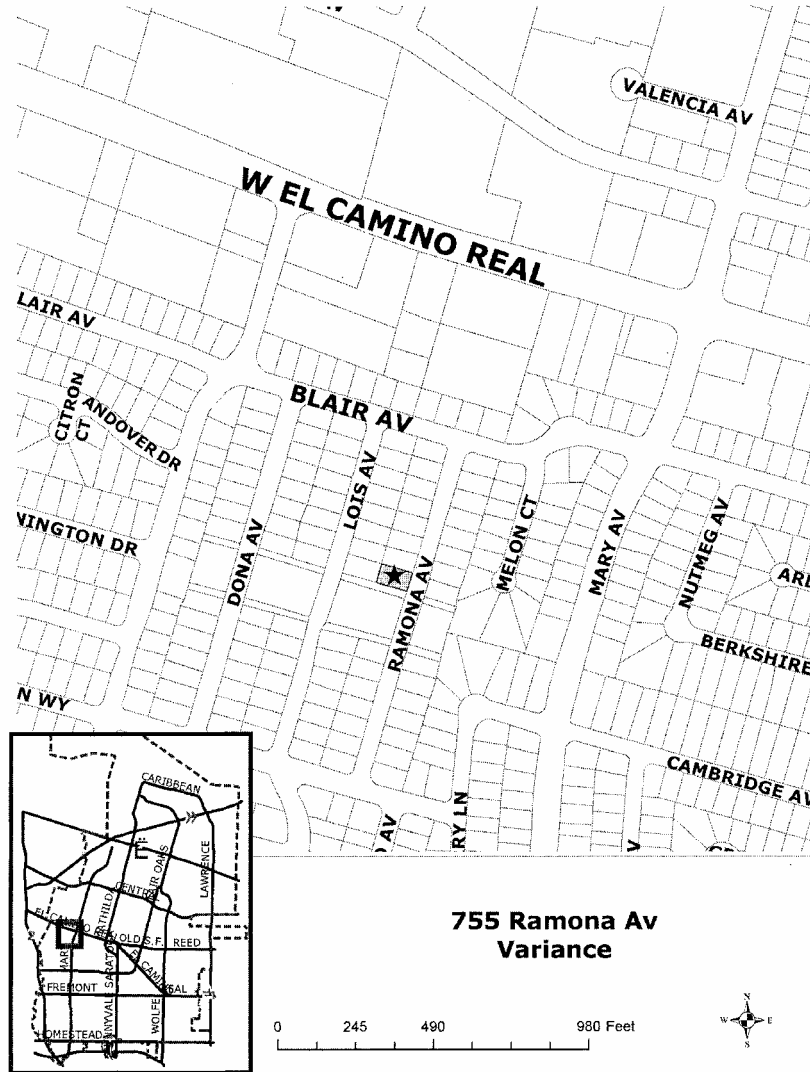
**Surrounding Land Uses**

North	Single Family Home
South	City of Sunnyvale Vacant Lot/PG&E Lot with Utility Lines
East	Single Family Home
West	Single Family Home

**Issues** Setbacks

**Environmental Status** A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines.

**Staff Recommendation** Approval



**PROJECT DATA TABLE**

	<b>EXISTING</b>	<b>PROPOSED</b>	<b>REQUIRED/ PERMITTED</b>
<b>General Plan</b>	Residential Low Density	Same	Residential Low Density
<b>Zoning District</b>	R-0	Same	R-0
<b>Lot Size (s.f.)</b>	6,300	Same	6,000 min.
<b>Gross Floor Area (s.f.)</b>	1,471	Same	No max.
<b>Lot Coverage (%)</b>	23%	Same	45% max.
<b>Floor Area Ratio (FAR)</b>	23%	Same	45% max. without PC review
<b>Setbacks (First/Second Facing Property)</b>			
<b>Front</b>	29'0"	Same	20' min.
<b>Left Side</b>	6'6"	3'4"	4' min. for Air Conditioning Units
<b>Right Side</b>	5'7"	Same	5'6" min.
<b>Rear</b>	20'	Same	20' min.
<b>Parking</b>			
<b>Total Spaces</b>	4	Same	4 min.
<b>Covered Spaces</b>	2	Same	2 min.



★ Starred items indicate deviations from Sunnyvale Municipal Code requirements.

**ANALYSIS****Description of Proposed Project**

The proposed project includes a new air conditioner placed along the left side of the home 8" within the 4' side yard setback requirement. The air conditioner unit will be placed on a new concrete slab surrounded by a new fence. The unit will be located 8" from the existing home, which is the minimum required by Building Code.

**Background**

**Previous Actions on the Site:** There are no previous planning items related to the site.

**Environmental Review**

A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. Class 1 Categorical Exemption includes minor additions.

**Variance**

**Site Layout:** The air conditioner unit is on the side of the home which abuts two vacant lots. One lot is owned by the City of Sunnyvale and the other lot is owned by PG&E and has utility lines running across it. The subject lot is separated from the City lot by a fence and extensive landscaping. The unit will be placed approximately 43' from the front property line and 64' from the rear property line.

The applicant is proposing to enclose the unit with a 3' by 3' fence to reduce the noise and visual impacts to the surrounding neighbors.

**Architecture:** The air conditioner unit will be placed behind a new wood fence, which reduces any possible architectural impacts because it will match the existing wood fences on the property.

**Landscaping:** The project site meets the landscaping standards for properties located in the R-O Zoning District. No landscaping will need to be removed for installation of the air conditioner unit.

**Parking/Circulation:** As shown in the Project Data Table of this report, the site maintains two covered and two uncovered parking spaces on site. No modifications are proposed with this project.

**Compliance with Development Standards/Guidelines:** The code requires air conditioner units to be set back at least 4' from adjacent property lines. The intent of this requirement is because equipment (such as an air conditioner) emits noise and should be set away from the adjoining properties to ensure there is no impact on the neighbors. A Variance is required to deviate from this requirement.

**Expected Impact on the Surroundings:** The subject property is surrounded by other homes, except along the left side. The impact of the air conditioning unit on the property along this side would be insignificant because the lot is vacant. There would be a greater impact if the air conditioner was placed in other locations because each option would be closer to existing homes.

**Fiscal Impact**

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No fiscal impacts other than normal fees and taxes are expected.

**Public Contact**

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The applicant provided two letters from adjacent neighbors stating their support of the proposed location because of noise concerns if located closer to their homes (Attachment E).

<b>Notice of Public Hearing</b>	<b>Staff Report</b>	<b>Agenda</b>
<ul style="list-style-type: none"><li>• Published in the <i>Sun</i> newspaper</li><li>• Posted on the site</li><li>• 7 notices mailed to adjacent property owners and residents of the project site</li></ul>	<ul style="list-style-type: none"><li>• Posted on the City of Sunnyvale's Website</li><li>• Provided at the Reference Section of the City of Sunnyvale's Public Library</li></ul>	<ul style="list-style-type: none"><li>• Posted on the City's official notice bulletin board</li><li>• City of Sunnyvale's Website</li><li>• Recorded for SunDial</li></ul>

**Conclusion**

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**Findings and General Plan Goals:** Staff was able to make the required Findings based on the justifications for the Variance (Attachment A).

**Conditions of Approval:** Conditions of Approval are located in Attachment B.

**Alternatives**

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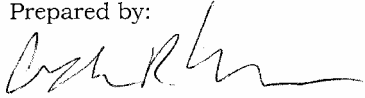
1. Approve the Variance to allow an air conditioner unit 3'4" from the side property line with the attached conditions.
2. Approve the Variance to allow an air conditioner unit 3'4" from the side property line with modified conditions.
3. Deny the Variance.

**Recommendation**

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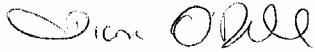
Alternative 1.

Prepared by:



Andrew Miner  
Project Planner

Reviewed by:



Diana O'Dell  
Senior Planner

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Site and Architectural Plans
- D. Project Description and Justifications from the Applicant
- E. Letters from Other Interested Parties

**Recommended Findings - Variance**

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1. Because of exceptional or extraordinary circumstances or conditions applicable to the property, or use, including size, shape, topography, location or surroundings, the strict application of the ordinance is found to deprive the property owner of privileges enjoyed by other properties in the vicinity and within the same zoning district. The air conditioner unit location will be adjacent to an existing vacant lot rather than a location in the back yard which could meet setback requirements. A back yard location would have the potential to be a nuisance to the surrounding properties. Using the side yard location would reduce any impacts to the greatest degree possible.
2. The granting of the Variance will not be materially detrimental to the public welfare or injurious to the property, improvements or uses within the immediate vicinity and within the same zoning district. The proposed setbacks of the air conditioner will not be considered detrimental to the property or the immediate vicinity. The unit will be located in the area which will have the least impact to the neighborhood because it would be adjacent to a vacant City of Sunnyvale lot. The applicant purposely placed the unit in this location to avoid impacts to the neighbors. In addition, the unit will be screened from view with the addition of a new fence.
3. Upon granting of the Variance, the intent and purpose of the ordinance will still be served and the recipient of the Variance will not be granted special privileges not enjoyed by other surrounding property owners within the same zoning district. The property is adjacent to existing City and PG&E vacant lots. This type of situation is unique in the City and the granting of a variance for the proposed project would not be considered a special privilege. The intent of the ordinance is served by finding a location that has the least impact on nearby residences.

**Recommended Conditions of Approval - Variance**

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In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following conditions of approval of this Permit:

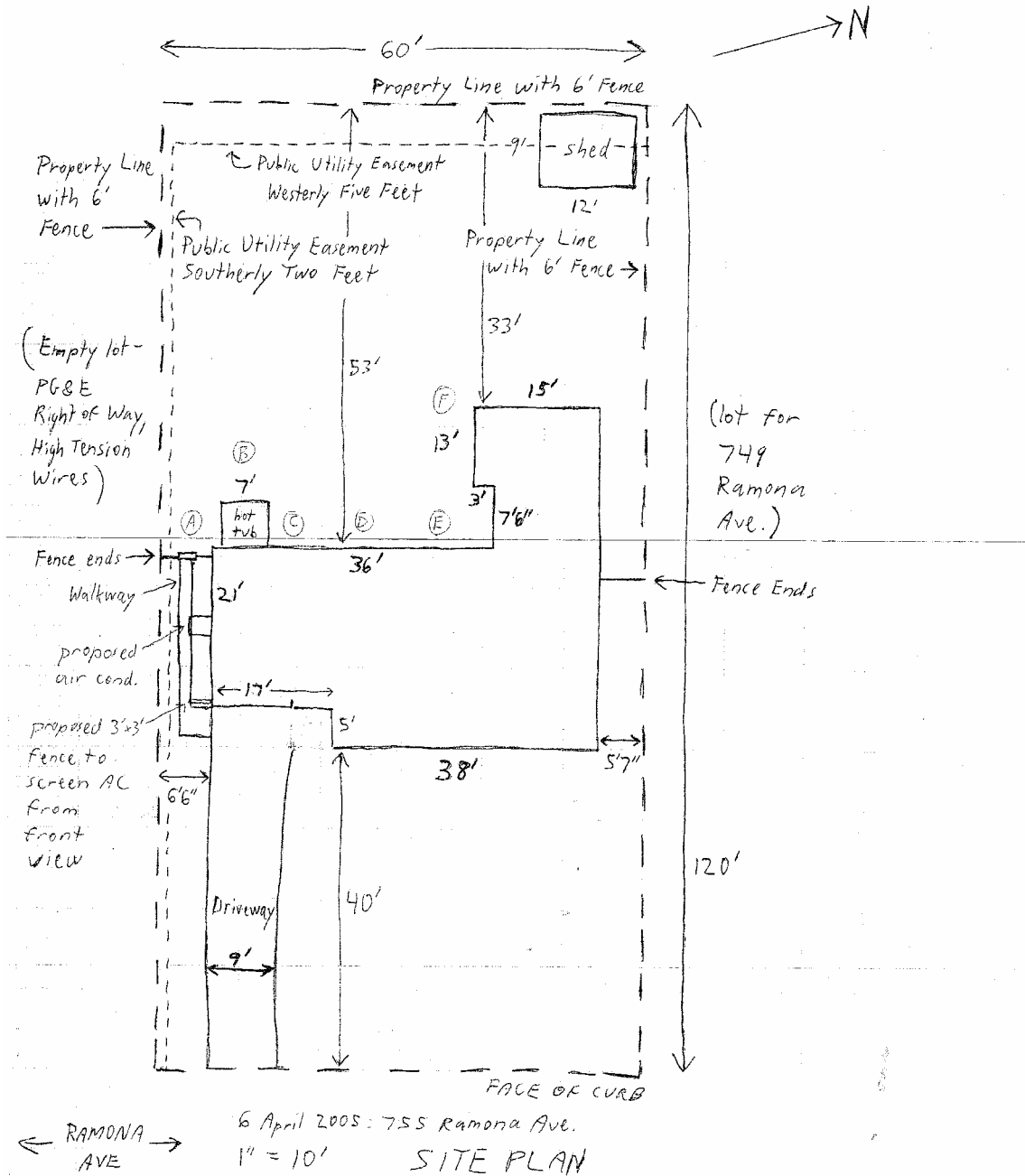
Unless otherwise noted, all conditions shall be subject to the review of approval of the Director of Community Development.

**1. GENERAL CONDITIONS**

- A. Project shall be in conformance with the plans approved at the public hearing(s). Minor changes may be approved by the Director of Community Development, major changes may be approved at a public hearing.
- B. The Variance shall be null and void two years from the date of approval by the final review authority at a public hearing if the approval is not exercised, unless a written request for an extension is received prior to expiration date.
- C. Planning shall review and approve the design of the screening fence prior to issuance of a building permit.
- D. The air conditioner unit shall meet all noise requirements of the Municipal Code.



(lot for 756 Lois Ave.)

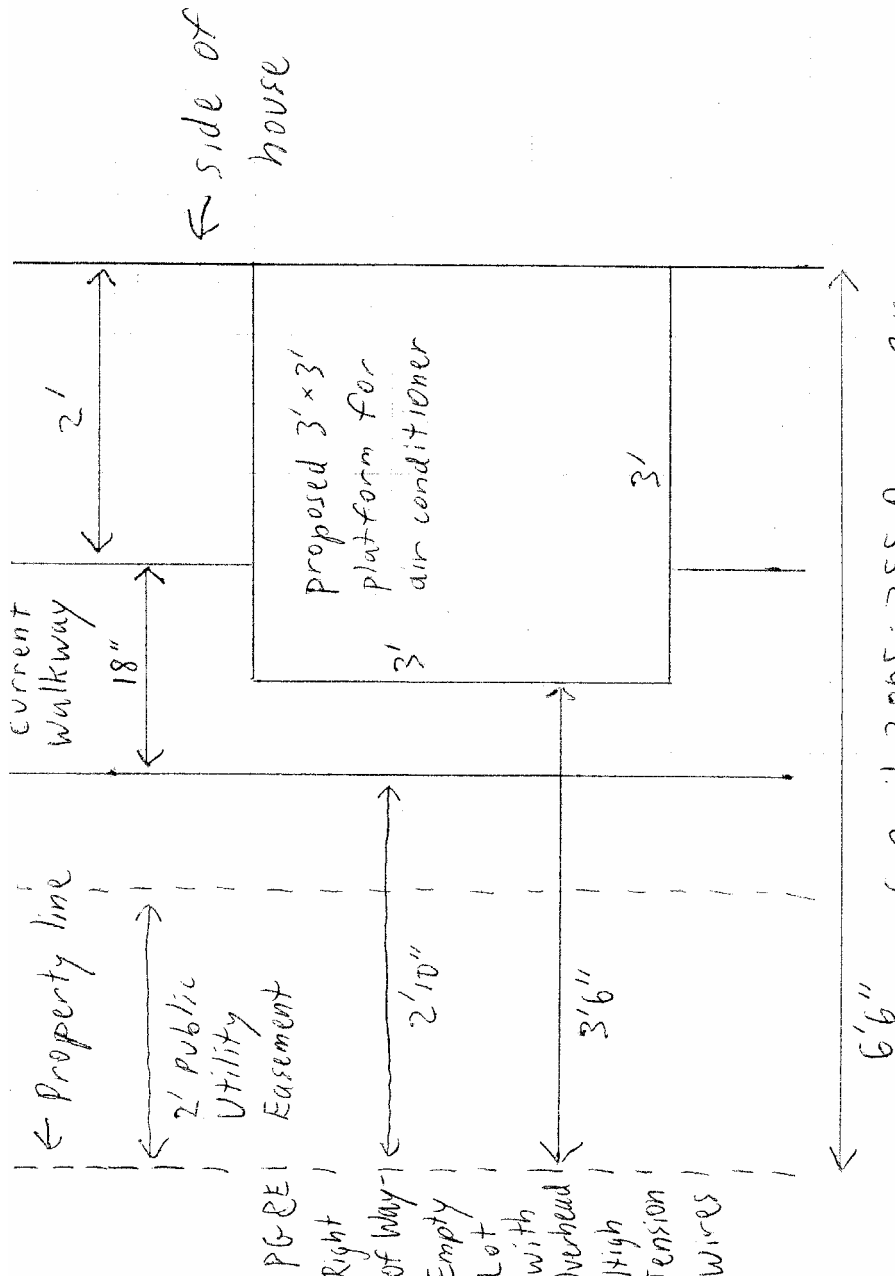


← RAMONA →  
AVE

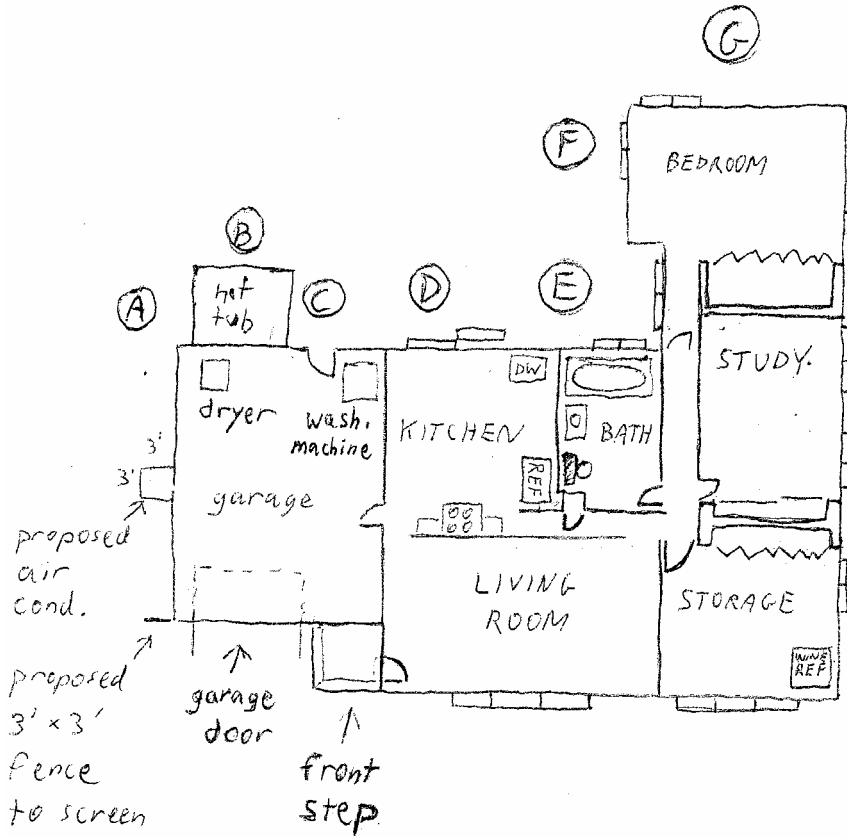
6 April 2005: 755 Ramona Ave.

$$1'' = 10'$$

# SITE PLAN



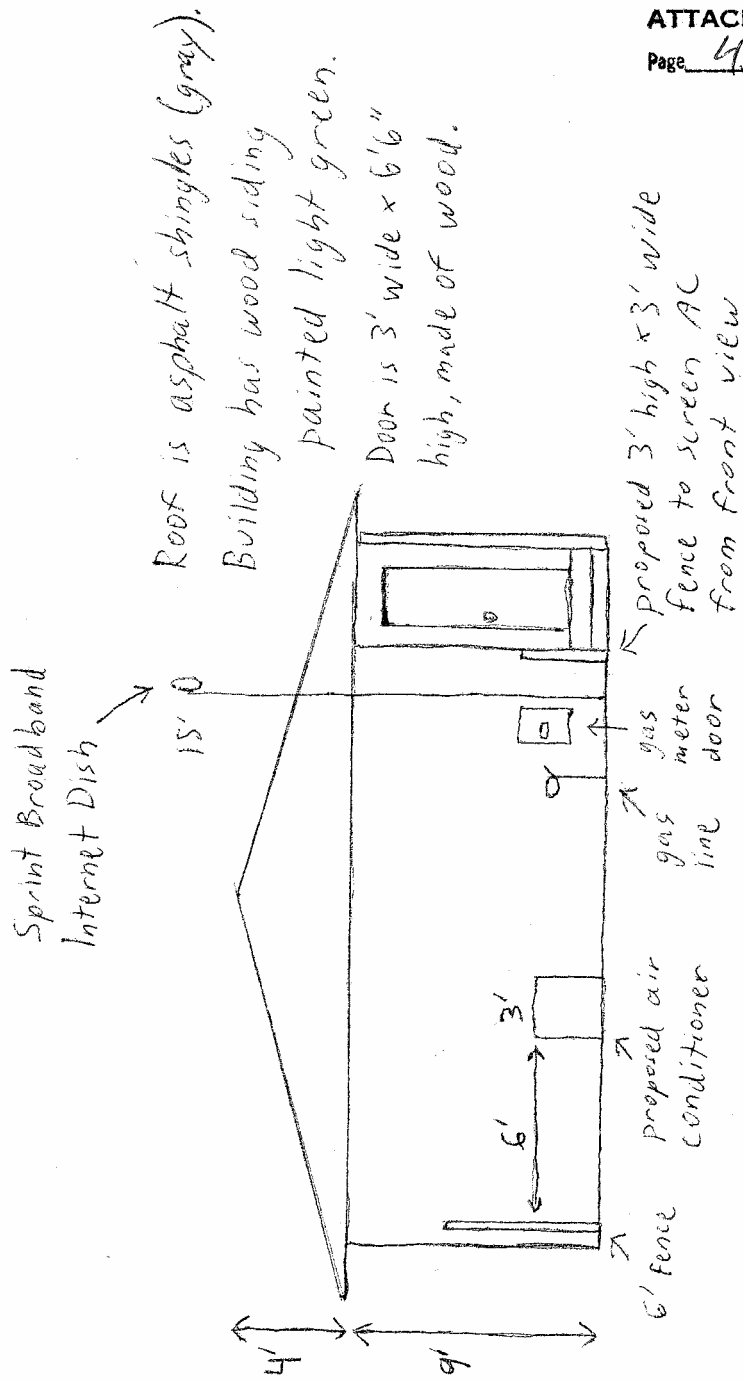
6 April 2005: 755 Ramona Ave.  
 1" = 1' SITE PLAN DETAIL:  
 ALLEY TO SOUTH OF HOUSE



proposed  
3' x 3'  
fence  
to screen  
AC from  
view

6 April 2005: 755 Ramona Ave.

1" = 10' FLOOR PLAN



6 April 2005: 755 Ramona Ave.  
 1" = 5' SOUTH SIDE ELEVATION

## BRIEF DESCRIPTION OF PROJECT AT 755 RAMONA AVE.

I intend to install central heating and air conditioning. This work will of course be permitted through the ordinary procedure.

Because of my neighbors' and my own unusual sensitivity to noise, I wish to locate the air conditioner compressor as far as possible from my neighbors' property and from the master bedroom of my own home as possible. To make this possible, I am seeking a variance from the side setback requirement to permit me to install the air conditioner compressor on the left side of my house. This will result in the compressor facing the empty lot next door that is a Pacific Gas & Electric right-of-way, minimizing the exposure of my neighbors as a whole to noise.

## VARIANCE JUSTIFICATIONS FOR 755 RAMONA AVE.

1. Because of exceptional or extraordinary circumstances applicable to the property, or use, including size, shape, topography, location, or surroundings, the strict application of the ordinance is found to deprive the property owner of privileges enjoyed by other properties in the vicinity and within the same zoning district.

In planning the location of the compressor for my upcoming air conditioner installation project, I have discovered that both of my neighbors have an unusual sensitivity to ambient noise.

- My neighbor Mark Gienger to the north at 749 Ramona Ave. has sleep apnea and is concerned that if the compressor is installed on the north or west side of my property within close earshot of their sleeping area, this may make it even more difficult for him to sleep than it is already. (See included letter from Mark Gienger.)
- The youngest child of my neighbor Melba Weber has been diagnosed with Sensory Processing Disorder, a disability that causes unusual sensitivity to light and sound and can lead to developmental delays. Therefore they are concerned that if the compressor is installed on the west side of my house (facing them) or on the roof (broadcasting sound over the fence in their direction), this could increase the ambient noise in their area and potentially exacerbate their child's condition. (See included letter from Melba Weber.) In installing the compressor, I wish to place it appropriately to minimize any potential negative impact on their uniquely sensitive child.

I myself am an unusually light sleeper due to my allergic condition known as atopic dermatitis. Therefore I also wish to avoid placing the compressor directly adjacent to my master bedroom.

I have evaluated possible placements of the compressor. The front of the house is not permitted by the code for aesthetic reasons. Location (A) [see included SITE PLAN or FLOOR PLAN] would block the gate used to enter the backyard. Location (B) is unusable due to the presence of a hot tub. Location (C) would block egress through the door from the garage. Location (D) would block egress from the kitchen through the sliding glass doors. Location (E) cannot be used because it would prevent me from ultimately improving the property by adding a master bathroom at that location. Locations (F) and (G), and the north side of the house, are all immediately adjacent to the master bedroom and quite close to both of my neighbors who, as mentioned, are unusually sensitive to noise and may be troubled by even the level of sound permitted by the code. Placing the compressor on the roof may have the effect of broadcasting sound at my neighbors to the west who have a child with a disability that makes him uniquely sensitive to sound.

For all these reasons, I wish to install the compressor on the south side of my property in an alleyway between my garage and an empty lot that is a PG&E right-of-way under high tension wires (and which therefore will never be occupied by a residence). To do this, I

must obtain a variance to the setback requirement that will permit the air conditioner compressor to be placed on a 3'x3' platform that will be adjacent to the south wall of the house (which is 6'6" from the south property line). Obtaining this variance will enable me to install an air conditioner, a privilege enjoyed by numerous other property owners in the area, while at the same time ensuring that I don't exacerbate my neighbors' unusual sensitivity to noise or affect my own ability to sleep.

2. The granting of the variance will not be materially detrimental to the public welfare or injurious to the property, improvements or uses within the immediate vicinity and within the same zoning district.

The property will not be injured by granting the Variance. Installing air conditioning will increase the value of the property. Siting the compressor optimally to minimize noise in the master bedroom will have the same effect.

The property's visual appearance will not be harmed. As part of the project, I propose to install a small 3'x3' fence in front of the compressor so that the compressor will not be visible from the front of the property. (See included FLOOR PLAN, SITE PLAN, and SOUTH SIDE ELEVATION.)

If the planners are concerned about the fact that the compressor's 3'x3' platform will partially overlay the current 18" walkway, I will extend the walkway to the left of the compressor (without intruding on the 2' public utilities easement to the south) so that an effective 18" walkway is preserved around the compressor.

Public welfare will not be harmed by granting the Variance. Siting the compressor away from my sensitive neighbors will help to ensure an optimal living environment for everyone in the area.

The compressor will also not intrude into or violate the 2' public utilities easement on the south side of the property (which is presumably due to the electric line overhead that runs to the street light). At its closest point, compressor will be 3'6" from the property line and 1'8" from the easement. (See included SITE PLAN DETAIL: ALLEY TO SOUTH OF HOUSE.)

3. Upon granting of the Variance the intent and purpose of the ordinance will still be served and the recipient of the Variance will not be granted special privileges not enjoyed by other surrounding property owners within the same zoning district.

Planning staff have informed me that one reason for setback requirements is to prevent noise impact from one property to another. This variance will not cause any undue noise impact on a neighbor (in fact, it will do the reverse) because it will place the compressor adjacent to an empty lot that is a PG&E right of way underneath high tension wires, a lot that will as a result never be occupied. Therefore, placement in this location will ensure that there is a full lot width's separation (60') between the compressor and the nearest neighbor (the one on the other side of the PG&E right of way). The presence of this

PG&E right of way, and the presence of neighbors with an unusual sensitivity to noise, are course an unusual feature of this property that makes it different from most others in the district. Therefore granting of the variance will not be granting special privileges; it will be enabling me to make a reasonable accommodation given the special circumstances of this property to the special needs of my uniquely sensitive neighbors.

Planning staff have informed me that another reason for setback requirements is to ensure the ability to pass by for safety reasons. Installing the compressor at this location will not have the effect of reducing the ability to pass by the side of the house. Currently there is 6'6" between the side of the house and the property line. However there is a fence with a 3'6" gate, so nothing larger than 3'6" could pass into the backyard as matters stand today already. After the compressor is installed, there will still be 3'6" of clearance between the edge of the compressor and the property line. Moreover, if the fire department ever needed to gain good access to the rear of the property, they would not need to walk around the side of the house; they could cut the lock on the PG&E right of way and drive an entire fire truck directly on to the PG&E right of way itself, providing direct access to the rear of the house, something that could obviously never be done by using the alley to the left of my house. So granting the Variance will not interfere with the intent of the ordinance to preserve pass by for safety reasons.

Thus even if the Variance is granted, the ordinance's intent of preventing noise impact on neighbors will be preserved (and in fact facilitated), and the intent of ensuring safe pass by will be satisfied as well.

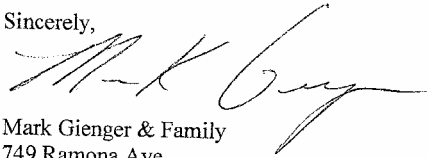


April 4, 2005

Dear Eric,

Per your request to install a new heating and air conditioning unit between our property 749 Ramona and your property 755 Ramona Avenue. We would like to request that you attempt to relocate the unit to another portion of your property due to the closeness of all of our family's bedrooms as well as a matter that I suffer from sleep apnea and have a very hard time sleeping through the night as it is. For this reason along with the fact that all of our headboards are along that specific adjoining wall. We feel that installing the unit between our homes would cause a significant amount of disturbance to our family. Please let us know who we should address these concerns to should the city request that you install the unit along our property lines.

Sincerely,



Mark Gienger & Family  
749 Ramona Ave  
Sunnyvale, CA 94087

**AFFIDAVIT OF MEDICAL NEED AND DISABILITY STATUS**

To whom it may concern:

My name is Melba Weber. I reside at 756 Lois Avenue, which is the lot directly behind Eric Krock's lot at 755 Ramona Ave. My husband and I are concerned that the installation of air conditioning might have a negative impact on our youngest child who has been diagnosed with Sensory Processing Disorder. This affidavit is to certify the following facts about our child's condition, special needs, and disability status:

- Our youngest child has been diagnosed with Sensory Processing Disorder. This is a highly unusual condition. In our child's case, it means that the child has an unusual sensitivity to light and sound.
- For people with this condition, levels of ambient noise that do not affect people without the condition may interfere with the mind's ability to process information. In other words, people with this condition are uniquely sensitive to ambient noise.
- The condition can slow a child's intellectual development, and it is very important to us that nothing be done that would needlessly exacerbate this condition as we work with our physician to overcome it.
- In particular, we are concerned that if the air conditioner is placed at the rear of Eric's house or on the roof, this could broadcast noise in our direction. Although this level of noise would be within code limits and would not be a matter of concern to most people, because of our child's rare

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disability, this level of noise could cause problems for our child.

- Therefore we request that the city planners permit the air conditioner to be placed as far away from our property as physically possible. Although we understand that it cannot be in front of Eric's house due to zoning rules, we request that it be placed on the left side of his house in the walkway facing the PG&E right of way. In this location, the side of Eric's house will reflect most of the noise into the empty PG&E lot, and there will be two fences in between the compressor and our house to minimize remaining noise transmission in our direction, as well as maximum possible distance between the compressor and our house.
- Sensory Processing Disorder qualifies as a disability under the Americans With Disabilities Act. I ask that the Sunnyvale City Planning authorities give every possible accommodation to our youngest child's disability, special needs, and unique sensitivity to noise in his ambient environment as you consider Eric's application for permission for appropriate placement of the air conditioner on his property to minimize the ambient noise our uniquely sensitive child will be exposed to.

Respectfully yours,



Melba Weber  
756 Lois Ave., Sunnyvale, CA 94087  
April 5<sup>th</sup>, 2005

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Affidavit of medical condition

To whom it may concern:

This note is to certify the following information about the medical history of Eric Krock:

I have an allergic condition known as atopic dermatitis. This condition is characterized by itchiness of the skin and may disrupt the patient's sleeping patterns leading to effects such as lighter sleep, more frequent awakening, loss of sleep, fatigue, and impact on the person's productivity. I developed this condition during the year 2001. I had significant sleeping problems during that year. My lightness of sleep, difficulty staying asleep, and accompanying fatigue during this period that I was not aware of my condition even contributed to an automobile accident that year in which I was deemed at fault. Fortunately this was at low speed and no one was injured. I subsequently pursued diagnosis of my problem. I was diagnosed with atopic dermatitis in December of 2001 and have been under treatment since through the use of prescription medication which reduces the itching and makes it easier to fall and stay asleep. However it is important for my health, safety, and productivity that I continue also take all possible steps to ensure that I am able to sleep well. Even under treatment, I remain a lighter sleeper by far than the average person and much more sensitive to the presence of noise in my environment. I manage this unusual sensitivity currently through the use of earplugs. However I wish to take all possible measures to minimize ambient noise in my immediate sleeping environment to ensure that my sleep is not once again disrupted which would potentially jeopardize my health. In particular, as I contemplate installing an air conditioner in his home, because of my unique sensitivity to noise, I wish to ensure that the compressor be placed on the property as far away from my bedroom as possible.

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I request that the Sunnyvale City Planning authorities give appropriate accommodation to my medical condition, special needs, and unusual sensitivity to noise in my ambient sleeping environment as you consider my application for permission for appropriate placement of the air conditioner on my property to minimize the risk of disrupting my sleep.

Sincerely yours,

*Eric Krock*

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Eric Krock  
April 6<sup>th</sup>, 2005

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